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# c 22 Public Service Superannuation Amendment Act, 1984

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## CHAPTER 22

### **An Act to amend the Public Service Superannuation Act**

*Assented to June 13th, 1984*

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.—(1) Clause 1 (1) (d) of the *Public Service Superannuation Act*, being chapter 419 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:**

(d) “contributor” means,

- (i) a civil servant,
- (ii) a person employed in the service of the Crown on a recurring and consecutive basis for seasonal or recurring work for four months or more but less than twelve months in each year,
- (iii) a person in a class of persons to whom this Act is made applicable,
- (iv) the Provincial Auditor,
- (v) the Assistant Provincial Auditor, or
- (vi) a member of the staff of the Provincial Auditor,

but does not include,

- (vii) a person who has not yet attained the age of eighteen years, or
- (viii) a person who is a contributor to a fund to which the Crown contributes other than the Public Service Superannuation Fund, the

**Superannuation Adjustment Fund and the  
Canada Pension Plan.**

**(2) Subsection 1 (1) of the said Act is amended by adding thereto the following clause:**

- (ga) “salary”, in relation to a person, means remuneration paid for services in the employment in relation to which the person is a contributor, but does not include an amount paid for a reason prescribed by the regulations.

**(3) Subsection 1 (1) of the said Act is further amended by adding thereto the following clause:**

- (gb) “supplementary benefit” means a benefit in addition to the benefits provided in this Act.

**(4) Section 1 of the said Act is amended by adding thereto the following subsection:**

Option for  
seasonal or  
recurring  
work  
contributor

- (4) Subclause (1) (d) (ii), which relates to persons employed on a recurring or consecutive basis, does not apply to a person so employed until the first day of the month next following the month in which the person files with the Board an election, signed by the person, to be a contributor under this Act.

**2. Section 3 of the said Act is amended by adding thereto the following subsection:**

Liability

- (4) No proceeding for damages shall be commenced or continued against a member of the Board for an act done in good faith in the performance or intended performance of a duty or in the execution or intended execution of a power under this Act or the regulations or for neglect or default in the performance of a duty or the execution of a power under this Act or the regulations.

**3. The said Act is amended by adding thereto the following section:**

Rules for  
computations  
re part-time  
and seasonal  
or recurring  
work  
contributor

**7a.** For the purpose of computing the entitlements under this Act and the regulations of or related to a person who is a contributor by virtue of employment that is not full-time employment, the following rules apply:

1. Part-time service on a regular and continuing basis and service on a recurring and consecutive basis for

seasonal or recurring work shall be treated as continuous service.

2. A contributor employed on a regular and continuing part-time basis is entitled to credit for service in the proportion that the work period of the contributor bears to the work period of a contributor employed on a regular and continuing full-time basis in the same or a comparable position to that in which the contributor is employed.
3. A contributor employed on a recurring and consecutive basis for seasonal or recurring work shall be given credit for service in the proportion that the work period of the contributor in each year bears to the full year.
4. The salary of the contributor for a twelve-month period shall be calculated according to the following:

$$\frac{S}{T} \times F = A$$

where,

S = contributor's actual salary for the twelve-month period.

T = contributor's work period.

F = full-time work period (in the same units of time as for T, that is hours, days, weeks or months).

A = salary for the twelve-month period.

5. For the purpose of determining length of service, service for a part of a year shall be deemed to be service for the whole year.
6. Rule 5 does not apply for the purpose of computing the amount of an allowance or an annuity.
7. Rule 5 does not apply for the purpose of determining entitlement to a superannuation allowance under subsection 11 (2) or (3).

8. The person's average salary shall be computed using the person's salary for consecutive twelve-month periods computed in accordance with rule 4.

**4. The said Act is further amended by adding thereto the following section:**

Bridging  
after  
release from  
employment

**7b.—**(1) A person who is released from employment in the public service by reason of shortage of work or funds or the abolition of a position or other material change in organization and who is designated for the purposes of this section by the Lieutenant Governor in Council continues to be a contributor until the end of the month in which the person would have qualified for a superannuation allowance under this Act if the person had not been released from employment.

Contributions

(2) Contributions by or on behalf of a person mentioned in subsection (1) shall be made on the basis of the person's salary immediately before the person ceased to be employed in the public service.

Credit for  
service

(3) The period of time for which contributions are required to be made under subsection (1) shall be counted as contributory service.

**5. Section 8 of the said Act is repealed and the following substituted therefor:**

Contribu-  
tions in  
respect of  
past service

**8.—**(1) A contributor is entitled to obtain credit in the Fund for past non-contributory service with the Crown in accordance with the following:

1. The contributor must give notice to the Board of intention to obtain the credit.
2. The contributor must pay into the Fund an amount for principal composed of the aggregate of an amount in lieu of contributions under this Act and an amount in lieu of contributions under the *Superannuation Adjustment Benefits Act* both as computed by the Board in respect of the period of service for which the credit is to be obtained.
3. Where the amount for principal is computed under subclause (2) (a) (i) (continuous service, notice within one year) or under subsection (3) (current contributor, notice within one year), the contributor must pay into the Fund compound interest, at such rate as the Board determines, on the principal amount for the period of time from the date of

commencement of the non-contributory service to the date on which the notice of intention to obtain the credit is given to the Board.

4. Where the principal or interest or both are paid into the Fund in instalments, the contributor must pay into the Fund an amount for compound interest at such rate as the Board determines.
5. Credit for service on a regular and continuing part-time basis shall be computed in the proportion that the work period of the contributor bears to the full-time work period of a civil servant in the same or a comparable position to that in which the contributor was employed.
6. Credit for service on a recurring and consecutive basis for seasonal or recurring work shall be computed in the proportion that the work period of the contributor in each year bears to the full year.

(2) For the purposes of subsection (1), the principal amount shall be computed,

Computation  
of principal  
amount

- (a) where the credit to be obtained is in respect of service continuous with service while a contributor and,
  - (i) the notice of intention to obtain the credit is given to the Board not more than one year after the contributor becomes a contributor, on the basis of the contributor's salary during the period for which the credit is to be obtained, or
  - (ii) the notice of intention to obtain the credit is given to the Board more than one year after the contributor becomes a contributor, on the basis of the contributor's salary on the date the notice is given; or
- (b) where the credit to be obtained is in respect of service that is not continuous with service while a contributor, on the basis of the contributor's salary on the date the notice is given.

(3) Notwithstanding subsection (2), where notice of intention by a person who is a contributor on the day this subsection comes into force is given to the Board not more than one year after the date on which this section comes into force in

Idem

order to obtain credit in respect of service that is not continuous with service while a contributor, the principal amount shall be computed on the basis of the contributor's salary on the most recent occasion on which he became a contributor.

Where records no longer available

(4) For the purposes of subsections (1) to (3), where past employment or salary records are no longer available, the Board may determine the amount of the salary during the period of time for which the contributor intends to obtain credit and may determine the day on which the past non-contributory service with the Crown was commenced.

**6.—**(1) Subsection 9 (1) of the said Act is amended by striking out “illness or pregnancy” in the second and third lines and inserting in lieu thereof “illness, pregnancy or adoption of a child”.

(2) Section 9 of the said Act is amended by adding thereto the following subsection:

Interpretation

(5) For the purpose of subsection (1), leave of absence because of pregnancy or adoption of a child includes all leave or leaves of absence in respect of the birth or adoption of the child.

**7.—**(1) Section 14 of the said Act is amended by adding thereto the following subsection:

Extension of guarantee

(8a) Subject to subsection (9), a person who is credited for the purposes of this Act with service that when added to the person's credit for service in the Fund establishes a date of commencement of service that is on or before the 31st day of December, 1965 shall, if he becomes entitled to an allowance or an annuity, receive an annual allowance or an annuity equal to that which he would have received if it had been computed under *The Public Service Superannuation Act* as it was on the 31st day of December, 1965.

R.S.O. 1960, c. 332

(2) Subsection 14 (9) of the said Act is amended by inserting after “subsection (8)” in the first line and in the eleventh line “or (8a)”.

(3) Subsection 14 (8a) of the said Act, as enacted by subsection (1), applies only in respect of a person who is or who becomes a contributor on or after the date subsection (1) comes into force.

**8.** The said Act is further amended by adding thereto the following section:

**20a.**—(1) A person who is a contributor or who is entitled to a deferred annuity under this Act may direct the Board to increase the amount of the survivor allowance related to the allowance or annuity to which the person will be entitled or related to the deferred annuity to 55 per cent, 60 per cent, 65 per cent, 70 per cent or 75 per cent of the allowance or annuity or deferred annuity and to reduce the amount of the allowance or annuity or deferred annuity accordingly.

Increase of  
survivor  
allowance

(2) A direction mentioned in subsection (1) must be in writing and must be delivered to the Board two years or more before the person commences to receive an allowance or an annuity or deferred annuity under this Act.

Time limit

(3) The Board shall accept a direction mentioned in subsection (1) that is delivered to the Board less than two years before the person commences to receive an allowance or an annuity or deferred annuity under this Act, if the Board is satisfied that the person is in good health having regard to the person's age.

Exception

(4) Where a direction mentioned in subsection (1) is delivered in accordance with subsection (2) or accepted in accordance with subsection (3), the amount of the allowance or annuity or deferred annuity payable to the person shall be actuarially reduced in a manner approved by the Board to allow for the survivor allowance in accordance with the direction, and the amount of the survivor allowance related to the allowance or annuity or deferred annuity shall be increased in accordance with the direction.

Actuarial  
reduction of  
allowance

(5) A direction mentioned in subsection (1) is not valid if the person who gives the direction dies before applying for an allowance or annuity or deferred annuity under this Act.

When  
direction  
not valid

(6) A person who gives a direction mentioned in subsection (1) may revoke the direction by a written revocation delivered to the Board before the date of commencement of the person's allowance or annuity or deferred annuity.

Revocation  
of direction

**9. Section 21 of the said Act is repealed and the following substituted therefor:**

**21.**—(1) In this section, “approved long term income protection plan” means a plan established pursuant to the *Public Service Act* or a plan established by an employer of contributors that provides long term income protection insurance related to employment for which credit has been established under this Act.

Long term  
income pro-  
tection plan  
R.S.O. 1980,  
c. 418



Contribution on behalf of disabled contributor

(2) Where a contributor has qualified for a benefit under an approved long term income protection plan in respect of a disability incurred on or after the 1st day of July, 1974, a contribution shall be made to the Fund on behalf of the contributor,

- (a) out of moneys appropriated therefor by the Legislature;
- (b) out of the special fund of the branch designated for the purpose of subsection 10 (2); or
- (c) by the board, commission or foundation that employed the contributor on the date when the contributor qualified for the benefit,

as the case requires, for each month or part of a month in respect of which the contributor continues to qualify for the benefit.

Amount

(3) The contribution mentioned in subsection (2) shall be 6 per cent of the salary authorized to be paid from time to time to a person in the same or a comparable position to that in which the contributor was employed in the month in which the contributor qualified for the benefit.

Receipt of benefit

(4) Subsection (2) applies whether or not the contributor is in receipt of the benefit.

Contributory service

(5) The period of time for which contributions are required to be made under subsection (2) shall be counted as contributory service.

Qualified as contributor

(6) Subsection (2) does not apply in respect of a person who has ceased to qualify as a contributor.

**10. Section 25 of the said Act is repealed and the following substituted therefor:**

Land registrars

**25.** This Act applies to every land registrar.

**11.** The said Act is further amended by adding thereto the following section:

Application of Act to Minister's staff

**26a.** This Act applies to every person appointed by a member of the Executive Council to a position designated by the Lieutenant Governor in Council in the service of the Crown in the office of a member of the Executive Council.

**12.** Section 27 of the said Act is repealed on the date that is one year after the day on which this Act comes into force.

**13.—(1)** Clause 28 (a) of the said Act is amended by striking out “full-time” in the first line.

**(2)** Section 28 of the said Act is amended by adding thereto the following subsection:

**(2)** A statement in any other Act that this Act applies to the full-time staff provided for in the other Act shall be deemed to state that this Act applies also to the part-time staff provided for in the other Act. Staff under other Acts

**14.—(1)** Subsection 29 (2) of the said Act is amended,

**(a)** by adding thereto the following clause:

**(fa)** the pension plan in the *Teachers’ Superannuation Act, 1983*; 1983, c. 84

**(b)** by inserting after “clergy” in the thirty-fifth line “or into the Teachers’ Superannuation Fund”.

**(2)** Subsection 29 (3) of the said Act is amended by adding thereto the following clause:

**(fa)** the pension plan in the *Teachers’ Superannuation Act, 1983*.

**(3)** Subsection 29 (8) of the said Act is amended by inserting after “therein” in the sixth line “or with the Teachers’ Superannuation Commission under the *Teachers’ Superannuation Act, 1983*”.

**15.** Section 34 of the said Act is amended by adding thereto the following subsections:

**(3)** Notwithstanding subsection (1), payment to a person out of the Fund is subject to garnishment, attachment or seizure in satisfaction of an order for support or maintenance enforceable in Ontario. Application of subs. (1)

**(4)** Subsection (3) applies only where the person receiving payment is given ten days notice, or such greater notice as is otherwise required by law in Ontario, as to the enforcement of the order. Notice of enforcement

**16.** Section 35 of the said Act is repealed.

**17.—(1)** Section 41 of the said Act is amended by adding thereto the following clause:

(aa) prescribing reasons for payment of amounts for the purpose of clause 1 (1) (ga), which relates to salary.

**(2) The said section 41 is further amended by adding thereto the following clause:**

(ab) providing for supplementary benefits and prescribing the terms and conditions upon which such supplementary benefits may be provided.

**(3) The said section 41 is further amended by adding thereto the following clauses:**

(ac) designating boards, commissions, foundations and positions for the purposes of section 28;

(ad) designating corporations, public institutions and Government related agencies for the purposes of section 29.

Commence-  
ment

**18.—(1) This Act, except sections 12 and 14, comes into force on a day to be named by proclamation of the Lieutenant Governor.**

Idem

**(2) Sections 12 and 14 come into force on the 1st day of September, 1984.**

Short title

**19. The short title of this Act is the *Public Service Superannuation Amendment Act, 1984*.**